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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
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9 United States of America,
10 Plaintiff,
11 v.
12 Kevin Bernard Wilson,
13 Defendant.
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No. CR-21-02898-003-TUC-RM (BGM)

ORDER

15 On March 6, 2025, Magistrate Judge Bruce G. Macdonald issued a Report and
16 Recommendation (“R&R”), recommending that this Court find Defendant Kevin Bernard
17 Wilson violated Special Condition No. 2 of his supervised release. (Doc. 202.)
18 Defendant filed an Objection. (Doc. 204.)

19 **I. Background**

20 On June 2, 2022, this Court sentenced Defendant to an 18-month term of
21 imprisonment followed by a 3-year term of supervised release for the felony offense of
22 Conspiracy to Transport Illegal Aliens for Profit. (Doc. 124.) Defendant admitted to a
23 violation of his supervised release (Doc. 155), and on July 11, 2024, this Court sentenced
24 him to a 5-month term of imprisonment followed by a 2-year term of supervised release
25 (Doc. 166). Special Condition No. 2 of Defendant’s supervised release states:

26 You must submit to substance abuse testing. You must not attempt to
27 obstruct or tamper with the testing methods. You must contribute to the
cost of testing in an amount to be determined by the probation officers.
28 (Doc. 166 at 3.)

1 The pending Petition to Revoke Supervised Release was filed on December 12,
2 2024, alleging two violations of Defendant's conditions of supervision. (Doc. 171.)
3 Allegation A of the Petition was dismissed on the Government's Motion. (Docs. 196,
4 197.) On March 4, 2025, Magistrate Judge Macdonald held an evidentiary hearing with
5 respect to Allegation B of the Petition, which alleges that Defendant violated Special
6 Condition No. 2 of his supervised release by failing to submit to random urinalysis drug
7 testing on four occasions. (Docs. 171, 198.) Magistrate Judge Macdonald subsequently
8 issued the pending R&R, finding that Defendant violated Special Condition No. by
9 failing to report for urinalysis testing on August 26, 2024; September 6, 2024; October 8,
10 2024; and November 18, 2024. (Doc. 202 at 4-5.)

11 **II. Standard of Review**

12 A district judge must "make a de novo determination of those portions" of a
13 magistrate judge's "report or specified proposed findings or recommendations to which
14 objection is made." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Crim. P. 59(b)(3) ("The
15 district judge must consider de novo any objection to the magistrate judge's
16 recommendation").

17 **III. Discussion**

18 Defendant does not dispute in his Objection to the R&R that he failed to report for
19 urinalysis testing on the four occasions at issue. (*See* Doc. 204.) Defendant explains the
20 reasons why he failed to report; he notes that he submitted to urinalysis testing on
21 multiple other occasions and that he offered to come into the probation office for testing
22 following the missed tests; and he highlights his efforts to comply with other conditions
23 of his supervised release, including his full-time enrollment in a professional truck driver
24 program and his participation in relapse prevention classes. (*See id.*)

25 The Court commends Defendant for his efforts to comply with other conditions of
26 his supervised release, but Defendant's Objection does not undermine the R&R's
27 findings that Defendant violated Special Condition No. 2 of his supervised release by
28 failing to report for urinalysis testing on four occasions.

1 Accordingly,

2 **IT IS ORDERED** that Magistrate Judge Macdonald's Report and
3 Recommendation (Doc. 202) is **accepted and adopted in full**, and Defendant's
4 Objection (Doc. 204) is **overruled**. This Court finds that Defendant violated Special
5 Condition No. 2 of his supervised release by failing to report for urinalysis testing on
6 August 26, 2024; September 6, 2024; October 8, 2024; and November 18, 2024.

7 **IT IS FURTHER ORDERED** that a final disposition hearing is set for **May 7,**
8 **2025, at 10:30 a.m.**, before the Honorable Rosemary Márquez, in Courtroom 5A of the
9 United States District Court for the District of Arizona, Evo A. DeConcini U.S.
10 Courthouse, 405 W. Congress Street, Tucson, AZ 85701.

11 Dated this 26th day of March, 2025.

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15 
16 Honorable Rosemary Márquez
17 United States District Judge

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